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ABSTRACT

This digest discusses public schooling for undocumented immigrant children--children born outside the United States who live here without permission of the federal government. Most are children of agricultural workers. Whatever their circumstances, undocumented immigrant children are entitled to attend school. Anti-immigrant fears are stoked by allegations that undocumented immigrants increase the costs of social services, including education. However, studies suggest that undocumented workers pay taxes but utilize public services at a lower rate than other U.S. residents. Despite the theory of the "common school," U.S. public schools were exclusive until recently. Efforts to exclude undocumented children from public schools contradict the 1982 U.S. Supreme Court ruling in Plyler vs. Doe. Under this ruling, schools may not deny admission to a student based on undocumented status, impose different admission rules or procedures based on individual or group characteristics, engage in practices to "chill" access to school, make enquiries of students or families that may "expose" their undocumented status, or require Social Security numbers of all students. To serve undocumented students well, schools should promote appropriate staff attitudes toward immigrant children and their parents; have courteous, welcoming admission procedures; explain to staff and parents the school procedures that particularly affect immigrant, bilingual, and undocumented children; and more generally, pursue good educational practices. (Contains 13 references.) (SV)

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Responding to Undocumented Children in the Schools

Susan C. Morse and Frank S. Ludovina

This Digest discusses public schooling for undocumented immigrant children, that is, children born outside the United States who live here without the legal permission of the federal government. Most are children of rural agricultural workers; others are children of urban service and manufacturing workers (Holman, 1997). Whatever their circumstances, however, undocumented immigrant children are entitled to attend public school (*Plyler v. Doe*, 1982).

Universal mass education includes all children, including undocumented immigrant children, partly because education creates productive workers and taxpayers who contribute to the general well-being of the nation. Nonetheless, the mandate to educate the children of "illegals" sometimes provokes xenophobia, from which these children need special protection. This Digest considers education policies related, in particular, to serving undocumented students well in U.S. schools and recommends strategies for meeting students' needs and ensuring access and equity in their schooling.

The Challenge for School Systems

Despite the United States' historical image as a "melting pot," immigration has long evoked fears in the parts of the country most affected by it. In recent years, such fears have been propagated once again by factions in those states most apt to receive immigrants. Part of the argument turns around allegations that immigrants, and especially *undocumented* immigrants, cause the cost of providing social services, including education, to increase beyond reason. Acting on such fears, citizens have sometimes supported anti-immigrant provisions (e.g., California's Proposition 187).

The actual cost of schooling undocumented children is, however, unclear. Because of the ways schools are funded, state and federal aid tend to keep pace with enrollment increases. Hence, local taxpayers are not likely to suffer an increased tax burden from the mandate to serve undocumented children. In fact, studies suggest that taxes withheld from the pay of undocumented workers (who seldom file for refunds) provide a *net gain* to local, state, and federal governments. One study found that undocumented immigrants used public services at a lower rate than other U.S. residents (Simon, 1997). Like filing for tax refunds, accessing public services (including schooling) is potentially dangerous for undocumented residents.

Theory and Practice of the Common School

Only within the past 50 years has the United States begun to realize the ideal of a high school education for *all* students. For most of their existence, U.S. public schools have been exclusive, and the "common school" has been more theory than practice. This long history means that the tendency to exclude, track, and marginalize some students (e.g., impoverished students, students of color, language minorities) remains a force both in society at large and throughout educational practice. As recently as the 1940s, most children in rural areas did not attend school beyond the eighth grade. Truancy laws were not enforced, and educators actively encouraged "difficult" students (including those who spoke languages other than English) to quit. Only a privileged few had access to the best schooling. The 1954 Supreme Court decision *Brown v. Board of Education* changed all of this, giving previously excluded African American children the right to more equitable access to public education. *Brown* brought us closer to a school system we all could hold in common.

In the early 1960s, when new programs began to assist the children of migrant farmworkers, fewer than 50% of migrant children at the second-grade level attended school (Johnson et al., 1986). Farmworkers needed their children to help in the fields or care for younger siblings. Improving attendance became a major goal of the Federal Migrant Education Program. In the 1960s and 1970s, pressure increased to enforce child labor laws, due in part to accidents among children working in the fields.

In the 1980s and 1990s, however, anti-immigrant sentiment has urged the reestablishment of policies of exclusion. Immigrants usually have not been welcomed by better established U.S. citizens, who often fear a loss of jobs or reduction in wages due to competition from immigrant workers willing to labor for low wages (Takaki, 1993).

Anti-immigrant Fever

Immigration has always stirred controversy. In 1790 the U.S. Congress enacted a law to initiate residency requirements; in 1868 the Burlingame Treaty facilitated Chinese immigration, which helped satisfy the country's growing demand for workers; and in 1882 the *Chinese Exclusion Act* came into force when Chinese workers were no longer needed. In 1924 Congress established the first immigration quota system and the U.S. Border Patrol. The *Immigration and Nationality Act* of 1952 implemented cold war fears, restricting communists and other supposed "undesirables" (Federation for American Immigration Reform, 1997).

In 1996 the exclusion of undocumented children from public schools was proposed by the U.S. Congress in the Gallegy amendment to the *Illegal Immigration Reform and Immigrant Responsibility Act*, but it was omitted in the final bill. This amendment (opposed by many police departments) would have put a sizable population of children in the streets, in the fields, or in other unsafe conditions while their parents worked.

California's Proposition 187, passed in 1996, "would have excluded approximately 308,000 children from the schools, and required public schools to verify the legal status of students and their parents" (Alarcon, 1994). The education provisions of Proposition 187 were found unconstitutional because they so blatantly contradicted *Plyler v. Doe*.

Complying with *Plyler*

The 1982 U.S. Supreme Court ruling *Plyler v. Doe* stands as the federal law regarding the admission of undocumented children to public schools. *Plyler* guarantees undocumented children the right to a free public education. The Court believed that denying undocumented children access to education unfairly punished the children for their parents' undocumented status. As a result of the ruling, schools may not

- deny admission to a student on the basis of undocumented status
- treat a student fundamentally different from others to determine residency
- engage in practices to "chill" access to school

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- require students or parents to disclose or document immigration status
- make inquiries of students or parents that may expose their undocumented status
- require Social Security numbers from all students

Chilling. Chilling refers to actions (of affected individuals or agencies—for instance, teachers, principals, schools, and school districts) that create fear among undocumented students or their families. Many families are understandably fearful of completing forms such as vaccination records. They know their residency in this country is precarious and are generally unclear about how U.S. institutions function. For example, the free-lunch application *requests* Social Security numbers but does not *require* them. Indeed, the completion of enrollment forms can dissuade many parents from enrolling their children in school in the first place.

Exposure. Educators are required *not* to "expose" children and families to the Immigration and Naturalization Service. Fear of exposure, however, leads parents to keep their children from school, and it causes children to worry about being arrested, separated from their parents, or kicked out of school (James, 1997). Firm leadership and clearly stated rules are required in an arena of such simultaneous controversy and clearly articulated legal principles. The *Family Educational Rights and Privacy Act* (FERPA) also prohibits schools from providing information to outside agencies that would expose students' citizenship status.

Disparity. Disparity refers to the imposition of different rules according to individual or group characteristics. An example would be a clerk who demands original documents of "suspicious" students but accepts copies from all others. Such procedures, whether gratuitous or a matter of written policy, can jeopardize the already fragile security of undocumented children. They increase the probability of exposure or chilling and can easily violate the requirements of *Plyler*.

States' policies. Guidelines do not allow schools to ask students about their legal status, but staff can verify residence for purposes of district attendance.

Serving Undocumented Children Well

Schools that serve undocumented children well attend to staff attitudes, admission and school procedures, organization, and (more generally) good educational practices.

Attitudes. School staff expect immigrant children to be motivated and hardworking. Indeed, many families that immigrate to the United States are motivated by the opportunity to send their children to good schools. Economic survival, however, generally figures as a high family priority, possibly limiting school attendance and participation. It helps if school staff realize that newly arrived and non-English-speaking parents, although educated in their own country, will have difficulty dealing with the U.S. education system. Immigrant parents are likely to view schooling in ways unfamiliar to many U.S. teachers and administrators. Staff should receive training about cultural and experiential expectations of the populations they serve (Holman, 1997).

Admission procedures. A courteous, welcoming environment and bilingual staffing make it likely that parents and children will feel comfortable. Clear maps of the school, well-marked rooms, color coding, bilingual signs, and escorts or "buddies" for new students send a welcoming message. Classroom placements should be made by someone especially familiar with bilingual and immigrant children and the programs available to help them.

School procedures. School administrators need to lead the ongoing effort to explain (to both parents and staff) the procedures (including those relating to *Plyler*) that particularly affect immigrant, bilingual, and undocumented children (Carrera, 1992). School rules should be made available in the language of the parents; the purposes of applications, forms, and questionnaires should be clearly explained to parents. Special attention should be given to school practices that may penalize students or parents, such as hidden costs or fines, confusing changes in bus schedules or school hours, or unclear visiting procedures.

Education practices. The characteristics of good schools in general include many that can enhance the education of undocumented children. Parents are involved and welcomed; staff works as a team on the clear behalf of students. The school values students, their families, and their experiences and cultures. Good practices include effective assessment of academic needs and language proficiency; appropriate class and course placement, including consultation with parents and teachers; and instruction geared to students' prior knowledge and experience. Limited English proficient students should be included in classes with English-speaking students, but should also receive instruction or support in their first language for cognitively challenging curriculum. Also important are social and academic multicultural programs, drop-out prevention efforts, college and career counseling, and "second-chance" opportunities for education and training (Romo, 1996).

The Challenge

Teachers and administrators who work hard to understand the strengths, the lives, and the cultures of undocumented immigrant children help to create a school environment that benefits all students (Holman, 1997). At the state, district, and local levels, educators and educational institutions must be assertive in upholding the law. They must ensure that undocumented children have access to the services to which their legal rights entitle them.

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Susan C. Morse was regional coordinator of Migrant Education in Monterey County (Salinas, California), and now teaches, writes, and consults.

Frank S. Ludovina initiated migrant education programs in much of northern California as a regional director, helped develop the nationally used Student and Program Needs Assessment for Migrant Children, and currently consults and speaks on migrant education issues.

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